

4401.7002-2 Cooperative agreements.

Cooperative agreements are to be used whenever the principal purpose of the relationship is the transfer of money, property, service, or anything else of value to recipients to accomplish a public purpose. The support or stimulation to be accomplished by this transfer must be authorized by Federal statute and substantial involvement is anticipated.

4401.7002-3 Examples of unsubstantial involvement.

Involvement is not substantial and a grant is the proper instrument when the following types of involvement are planned:

- (a) Approval of recipient plans prior to award.
- (b) Normal Federal stewardship such as site visits, performance reporting, financial reporting, and audits to ensure that objectives, terms, and conditions of the grants are met.
- (c) Unanticipated involvement to correct deficiencies in project or financial performance from the terms of the grants.
- (d) General statutory requirements understood in advance of the award such as civil rights, environmental protection, and provision for the handicapped.
- (e) Review of performance after completion.
- (f) General administrative requirements, such as those included in OMB Circulars A-21, A-95, A-110, and A-102.

4401.7002-4 Examples of substantial involvement.

Involvement is substantial and a cooperative agreement is the proper instrument when the following types of involvement are planned:

- (a) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the cooperative agreement.
- (b) Agency and recipient collaboration or joint participation in the performance of the assisted activities.
- (c) Highly prescriptive agency requirements prior to award limiting recipient discretion with respect to scope of services offered, organizational structure, staffing, mode of operation and other management processes, cou-

pled with close agency monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.

- (d) General administrative requirements beyond those included in OMB Circulars A-102 and A-110.

PART 4402—DEFINITION OF WORDS AND TERMS

AUTHORITY: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

Subpart 4402.1—Definitions**4402.100 Definitions.**

Agency means the Federal Emergency Management Agency (FEMA).

Director means the Director of the Federal Emergency Management Agency.

Interagency agreement means an agreement between two or more agencies, bureaus, or departments of the Federal Government by which supplies, services, or property are provided to, or obtained from, one or more agencies, bureaus, or departments of the Federal Government. Funds are transferred between the parties as consideration for the supplies, services, or property.

Memorandum of Understanding means an agreement between two or more agencies, bureaus, or departments of the Federal Government or other entity. Funds are not transferred between the parties.

Program office means any office which generates requests for procurement actions.

Project officer means the program office representative cognizant over the technical aspects of a given procurement action.

[50 FR 31318, Aug. 1, 1985]

PART 4403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**Subpart 4403.1—Safeguards**

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4403.602 Exceptions.

AUTHORITY: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

SOURCE: 50 FR 31319, Aug. 1, 1985, unless otherwise noted.

Subpart 4403.1—Safeguards

4403.101-2 Solicitation and acceptance of gratuities by Government personnel.

Exceptions to the prohibition against soliciting or accepting gratuities are explained in 44 CFR part 3, subpart B.

4403.101-3 Agency regulations.

FEMA “Standards and Conduct” are published in 44 CFR part 3. They include requirements for financial disclosure.

4403.103 Independent pricing.

4403.103-2 Evaluating the certification.

The Director, Office of Acquisition Management, is authorized to make

the determination described in FAR 3.103-2(b)(2).

Subpart 4403.2—Contractor Gratuities to Government Personnel

4403.203 Reporting suspected violations of the Gratuities clause.

Suspected violations shall be reported in the FEMA Office of the Inspector General. A report shall include all facts and circumstances relevant to the case.

4403.204 Treatment of violations.

Following review and any necessary investigation, the Inspector General shall make recommendations to the Director or a designee. If action is to be taken against a contractor, the contractor shall be given the opportunity for a hearing in accordance with FAR 3.204(b).

Subpart 4403.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

4403.602 Exceptions.

The Director, Office of Acquisition Management, may authorize an exception to the policy in FAR 3.601, based on facts and circumstances provided by the program office.